

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

IN RE: ETHICON, INC. PELVIC REPAIR SYSTEM PRODUCTS LIABILITY LITIGATION	Master File No. 2:12-MD-02327 MDL No. 2327
THIS DOCUMENT RELATES TO ETHICON WAVE 1 CASES	JOSEPH R. GOODWIN U.S. DISTRICT JUDGE

**DEFENDANTS' MOTION TO EXCLUDE
CERTAIN GENERAL OPINIONS OF BOBBY SHULL, M.D.**

Defendants Ethicon, Inc. and Johnson & Johnson (hereinafter "Defendants") move to exclude certain general opinions of one of Plaintiffs' experts, Bobby Shull, M.D., that are improper and/or are beyond his expertise as a urogynecologist. Specifically, Defendants request that the Court preclude Dr. Shull from: (1) Testifying that non-synthetic mesh procedures are a safer alternative for the surgical treatment of pelvic organ prolapse and/or that Defendants' devices present a heightened risk of complications as compared to those alternatives, because such procedures are not alternative designs and are irrelevant to a design-defect claim and because such opinions are unreliable; (2) Speculating about the duties of a medical device manufacturer, because he is not qualified to do so and such opinions are unreliable, irrelevant, prejudicial, contain legal conclusions, and/or are otherwise inadmissible; (3) Testifying about product design, alleged mesh degradation, and other biomaterials opinions, because he is not qualified to do so and such opinions are unsupported, unreliable, irrelevant, prejudicial, speculative and/or otherwise improper; (4) Offering warning opinions, because he is not qualified to do so and such opinions are irrelevant and inadmissible; and (5) Offering opinions

beyond Dr. Shull's expertise, because he is not qualified to do so and such opinions are speculative and unreliable.

As grounds for this motion, Defendants submit that Dr. Shull cannot provide reliable, trustworthy and/or admissible testimony about these topics under the standard set forth in *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993). In support of this motion, Defendants incorporate by reference their accompanying memorandum of law and rely on the following Exhibits:

1. List of cases in which Dr. Shull has been designated by Plaintiff(s) as a general expert, Exhibit A;
2. Dr. Shull's General Expert Report regarding Prolift and Prolift +M, Exhibit B (including Exhibit A thereto);
3. Dr. Shull's General Expert Report regarding Prosima, Exhibit C;
4. *In re AlloDerm Litigation*, Case Code 295, N.J. Superior Court of Middlesex County (Aug. 14, 2015), Exhibit D;
5. Transcript of Dr. Shull's 3/10/16 Deposition, Exhibit E;
6. Transcript of Dr. Shull's 3/15/16 Deposition, Exhibit F;
7. Excerpts of Transcript of Dr. Shull's February 2013 Deposition, Exhibit G;
8. *Bellew v. Ethicon, Inc.*, No. 2:13-cv-22473, Order (S.D. W. Va. Nov. 20, 2014), Exhibit H.

WHEREFORE, FOR THESE REASONS and as more fully set forth in Ethicon's supporting memorandum of law, Ethicon respectfully requests that this Court enter an order granting Ethicon's Motion to Exclude the Testimony of Dr. Bobby Shull, M.D.

Respectfully Submitted,

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U.S. DISTRICT JUDGE**

CERTIFICATE OF SERVICE

I, Christy D. Jones, certify that on April 21, 2016, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the CM/ECF participants registered to receive service in this MDL.

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